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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/760,039	01/12/2001	Joseph Rinchiuso	CE08395R	1866

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EXAMINER

HAILE, FEBEN

ART UNIT PAPER NUMBER

2616

DATE MAILED: 05/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/760,039

Applicant(s)

RINCHIUSO ET AL.

Examiner

Feben M. Haile

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 10-12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 13 and 14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Response to Amendment*

1. In view of applicant's amendment filed February 21, 2006, the status of the application is still pending with respect to claims 1-9 and 13-14.
2. The examiner acknowledges the applicants correction of the specifications, thus the objection has been withdrawn.
3. The amendment filed is insufficient to overcome the rejection of claims 1-9 and 13-14 as set forth in the last Office action.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Koo et al. (US 6,804,219), hereinafter referred to as Koo.

**Regarding claims 1 and 7**, Koo disclose transmitting data over a wireless data channel at a data rate (figure 2 unit 200; column 2 line 38; in an active state, data is

**transmitted on a dedicated traffic channel at a rate); determining that no more data needs to be transmitted (column 2 lines 43-46; data transmission is discontinued); and delaying dropping the data channel for a time period based on the data rate (column 3 lines 60-63; data transmission is discontinued for a predetermined time in a low rate transmission substate before the dedicated traffic channel is released into a control hold state).**

**Regarding claim 2,** Koo discloses wherein the step of transmitting data over the wireless data channel comprises the step of transmitting data over a Code Division Multiple Access (CDMA) Supplemental Channel **(column 1 lines 49-54; communication between a base station and mobile station use dedicated channels such as a supplemental channel).**

**Regarding claim 3,** Koo discloses wherein the step of delaying dropping the data channel for a time period based on the data rate comprises the step of delaying dropping the data channel for a time period, wherein the time period is proportional to the data rate **(column 3 lines 60-63; data transmission is discontinued for a predetermined time in a low rate transmission substate before the dedicated traffic channel is released into a control hold state).**

**Regarding claim 4,** Koo discloses operating a data transmitter in a CDMA Active state **(figure 2 unit 200; column 2 line 38; in an active state, data is transmitted on a dedicated traffic channel at a rate; determining that no more data needs to be transmitted over a CDMA supplemental channel (column 2 lines 43-46; data transmission is discontinued); prior to operating the data transmitter in a Control Hold**

state, delaying transition to the Control Hold state for a period of time, wherein the period of time is based on a data rate; and operating the data transmitter in a Control Hold state (column 3 lines 60-63; data transmission is discontinued for a predetermined time in a low rate transmission substate before the dedicated traffic channel is released into a control hold state).

Regarding claim 5, Koo discloses wherein the step of operating the data transmitter in the CDMA Active state comprises the step of transmitting via a dedicated control channel and a CDMA supplemental channel (column 1 lines 49-54; communication between a base station and mobile station use dedicated channels such as a dedicated control channel or a supplemental channel).

Regarding claim 6, Koo discloses wherein the step of operating the data transmitter in the CDMA Active state comprises the step of transmitting via a dedicated control channel only (column 3 lines 19-21; the active state is assigned to a DCCH, dedicated control channel).

Regarding claim 8, Koo discloses wherein the period of time is proportional to the data rate (column 3 lines 60-63; data transmission is discontinued for a predetermined time in a low rate transmission substate before the dedicated traffic channel is released into a control hold state).

Regarding claim 9, Koo discloses wherein the channel circuitry comprises CDMA fundamental channel circuitry (column 1 lines 49-54; communication between a base station and mobile station use dedicated channels such as a fundamental channel).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koo et al. (US 6,804,219), hereinafter referred to as Koo, as applied to claims 1-9 above, and further in view of Lohtia et al. (US 2002/0082033), hereinafter referred to as Lohtia.

**Regarding claims 13-14**, Koo discloses the limitations of base claim 1 and 7.

Koo fails to teach establishing a temporary block flow (TBF) between a transmitting device and a receiving device to transmit data over the wireless data channel; and delaying termination of the TBF by transmitting dummy data over the wireless data channel

Lohtia discloses establishing a temporary block flow (TBF) between a mobile station and base station (**page 2 paragraph 0024**). Lohtia further teaches that the base station and mobile station send messages to each other when the end of a TBF is detected before releasing the TBF (**page 3 paragraph 0029**).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Koo to incorporate the method of delaying the release of a connection between two devices as taught by Lohtia. The motivation being enhancing performance of bursty packet based communications over a wireless network.

***Response to Arguments***

6. Applicant's arguments filed February 21, 2006 have been fully considered but they are not persuasive.

On pages 9-10 of the amendment, the applicant argues that Koo neither teaches nor suggests that a delay period (i.e. the period of time to delay) should be based on a data rate. The examiner respectfully disagrees with the applicant. Koo teaches transmitting data on a dedicated traffic channel (DTCH) in an active state, where if data transmission is discontinued for a predetermined time in the active state, the DTCH is released and a control state is entered (**column 2 lines 38-46**). However, if it is anticipated from the amount of oncoming transmission data that a non-data transmission period will last longer, the active state may be directly transited to a suspend state (**column 2 lines 46-51**). Thus Koo suggests that a delay period should be based on a data rate

On page 11 of the amendment, the applicant argues that Lohtia does not suggest delaying TBF termination by transmitting dummy data. The applicant further states that the messaging described by Lohtia is neither suggestive of sending dummy data (but rather suggests control signaling to indicate the receipt of data). The examiner respectfully disagrees with the applicant. One of ordinary skill in the art recognizes the practice of using control signals to control the flow of data, where the control signals can be in the form of a dummy envelope of data. Thus when Lohtia teaches communicating control signaling between devices using a temporary block flow (TBF) (**page 2 paragraph 0024**), where the end of the TBF is detected before releasing

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the TBF (**page 3 paragraph 0029**), Lohtia suggests delaying TBF termination by transmitting dummy data.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

a) Lee et al. (US 7,020,113), Method for Allocating Dedicated Channel for Transmitting Packet in CDMA Media Access Control (MAC) Layer Control Unit

b) Rosen et al. (US 2002/0172169), Communication Device for Providing an Efficient Dormant Mode for A Group Communication Network

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.



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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Feben M. Haile whose telephone number is (571) 272-3072. The examiner can normally be reached on 6:00am - 3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Ngo can be reached on (571) 272-3139. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JH 05/08/2006